

STATE OF MICHIGAN
DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES
BEFORE THE STATE BOUNDARY COMMISSION

In the matter of:

Boundary Commission
Docket #98-AP-2

The proposed annexation of
territory in Clam Lake Township
to the City of Cadillac.

**SUMMARY OF PROCEEDINGS,
FINDINGS OF FACT AND CONCLUSIONS**

This matter of the proposed annexation of the following territory in Clam Lake Township to the City of Cadillac is described as follows:

The Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of Section Eight (8), Township Twenty-one North (T21N), Range Nine West (R9W), Clam Lake Township, Wexford County, Michigan.

SUMMARY OF PROCEEDINGS

- A. On **February 10, 1998**, a petition was filed by Mary M. Burke, property owner, asking for the annexation of a portion of Clam Lake Township into the City of Cadillac.
- B. On **July 9, 1998**, an adjudicative meeting of the State Boundary Commission was held in Okemos to determine the legal sufficiency of the petition. The petition was declared to be legally sufficient, pursuant to Public Act 191 of 1968, as amended, and Public Act 279 of 1909, as amended.
- C. On **September 2, 1998**, a public hearing was held in the City of Cadillac to receive testimony given pursuant to Public Act 191 of 1968, as amended.

Findings of Fact

- 1. **The Petitioner stated that annexation of the property was desired because:**
(The Petitioner is Mary M. Burke but Mr. Blakely has a purchase agreement with Ms. Burke and testified as her representative)
 - the Health Department has stated that this property cannot be developed with on-site sewage systems.

- There is a City sanitary sewer main within 150 feet of this property but he cannot access it unless the property is within the City limits.

- He discussed his plans with the Township and the Township told him they thought the property could remain in the Township and still get City sanitary sewer because of the expected results from litigation with the City. However, this was over a year ago and he cannot wait any longer to begin developing the property.

2. The City testified in support of the proposed annexation:

- City representatives stressed the need for affordable housing in the Cadillac area to attract and keep employees for area industries.

- regardless of the outcome of current litigation, the area proposed for annexation is not in a sewer district and therefore would not be eligible for public sanitary sewer unless annexed to the City.

- sanitary sewer service to a single family development on the property would have an inconsequential effect on the capacity of the City's system.

- any wetlands on the property would pose no serious impediments to development of the area.

- the southern boundary of the City is not straight now and that approval of this annexation would simply add to an area that already protrudes into the Township.

3. The Township testified in opposition to the proposed annexation:

- the property proposed for annexation is not suitable for development because of wetlands and that if the property were developed, it would be expensive and not result in housing affordable for low to moderate income people.

- the remaining capacity in the City's sewer system needs to be reserved for commitments to the surrounding Townships and that current litigation will result in the City being required to provide sanitary sewer to the area proposed for annexation.

- the Township is committed to developing its own waste water treatment system.

- the Township also stated that approval of this petition would exacerbate an already irregular Boundary between the City and Clam Lake Township.

4. Testimony from the Public included:

- Mr. James Devereaux presented a petition from forty-five residents of the Township and City opposed to the proposed annexation. Mr. Devereaux testified that they are concerned that annexation of this property will lead to the future annexation of 400 acres in Clam Lake Township; that development of this property will lead to expensive special assessments for area residents; that this property is not suitable for development because of the high water table; that wildlife and their habitat will be destroyed by development of this property; that a development of manufactured homes will attract the "wrong kind of people".

Mr. Allen Green, President of Cadillac Winter Promotions testified that his group is not taking a public position on the proposed annexation but is concerned that development of this property will adversely affect the White Pine Trail and snowmobile access to the lake.

Ms. Joy Gaasch from the Cadillac Area Chamber of Commerce did not take a position on the proposed annexation but presented the Commission with an Executive Summary of a study sponsored by the Cadillac Chamber of Commerce attesting to the need for affordable housing in the Cadillac area.

Mr. Phil Potvic, Vice President of the Cadillac Industrial Fund testified to the need for affordable housing.

Two letters in opposition to the proposed annexation were received from Township residents.

THE COMMISSION FINDS THAT

1. The petitioner requested the annexation primarily to obtain sanitary sewer service from the City for a proposed development project.
2. The City of Cadillac has the capacity and capability to provide the desired municipal services.
3. Clam Lake Township is not able to provide sanitary sewer service to the parcel proposed for annexation.
4. The proposed annexation reflects the best of the available alternatives in providing sanitary sewer service to the parcel.
5. The topographical conditions do not preclude in any substantial way the proposed annexation.
6. The proposed annexation does not conflict with any natural boundaries and drainage basins.
7. The residents on the parcel proposed for annexation constitute a small proportion of the Township residents and the proposed annexation would not have a substantial effect on the overall Township population.
8. Expectations for further population growth and urban development in the area are reasonable.

9. The proposed annexation of the property in the Township will not result in a substantial reduction of tax base or revenues of the Township.
10. The proposed annexation will not have a deleterious effect on the broader community.
11. The proposed annexation is not inconsistent with present adjacent or nearby land use patterns.
12. The proposed annexation would result in an increase of taxes for the affected parcel but the increase is relatively consistent with the services that the parcels and occupants will receive.
13. The City of Cadillac appears to have the fiscal capacity to accommodate the added demand for services from the parcels and its occupants.

Commissioner Toupin offered the following findings in dissent:

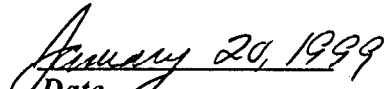
1. Clam Lake Township has the capacity and capability to provide the desired municipal services through its agreement with the City of Cadillac.
2. The City of Cadillac should not withhold sanitary sewer service outside its governmental boundaries because the sanitary sewer system was partially financed with a Federal grant twenty years ago.
3. Annexation of this parcel is not the most viable of the available alternatives in providing sanitary sewer service to the parcel. The most viable alternative would be an agreement between the City and the Township for the provision of sanitary sewer service to this parcel without annexation.
4. The proposed annexation will have a deleterious effect on the broader community because the most viable alternative for the broader community is a regional sanitary sewer system.

IN CONCLUSION:

1. The Commission has considered all of the testimony and the public record regarding the annexation petition.
2. On **December 15, 1998** at an adjudicative meeting held in Okemos, State Boundary Commissioners VerBurg, Rutledge, and Walker and Wexford County Commissioner Baker voted to recommend approval of the annexation to the Director of the Department of Consumer & Industry Services and Wexford County Boundary Commissioner Toupin voted against recommending approval of the annexation.

3. On **January 14, 1999**, at an adjudicative meeting held in Okemos, State Boundary Commissioners VerBurg and Rutledge and Wexford County Boundary Commissioner Baker voted to recommend approval of the Draft Findings of Fact and Conclusions, as amended, and to recommend that the Director of the Department of Consumer & Industry Services issue an Order approving annexation. Wexford County Boundary Commissioner Toupin voted against the motion.


Kenneth VerBurg, Chairperson
State Boundary Commission


Date

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_____/

FINAL ORDER

IT IS ORDERED THAT this order **approving** the annexation of certain territory in Clam Lake Township into the Home Rule City of Cadillac shall be final and effective **30 days after** the date signed by the Director of the Department of Consumer & Industry Services.

IT IS FURTHER ORDERED THAT this order incorporates the attached Findings of Fact and Conclusions made by the State Boundary Commission and that the State Boundary Commission shall transmit a certified copy of these Findings of Fact and Conclusions to the petitioner and to the clerks of the City of Cadillac, Clam Lake Township, and Wexford County.



Kathleen M. Wilbur, Director